

ESTTA Tracking number: **ESTTA507057**

Filing date: **11/21/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	SEAL TRADEMARKS PTY LTD
Granted to Date of previous extension	11/21/2012
Address	1 BILLABONG PLACEBURLEIGH HEADS QUEENSLAND, 4220 AUSTRALIA

Correspondence information	Sunny Nassim Attorney Jacobson, Russell, Saltz & Fingerman LLP 10866 Wilshire Boulevard Suite 1550 Los Angeles, CA 90024 UNITED STATES sunny@jrsfllp.com Phone:310-446-9900
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### Applicant Information

Application No	85559898	Publication date	07/24/2012
Opposition Filing Date	11/21/2012	Opposition Period Ends	11/21/2012
Applicant	Donald Acker III and Dylan Acker 14837 Rosemary Drive Fontana, CA 92335 UNITED STATES		

### Goods/Services Affected by Opposition


Class 025. All goods and services in the class are opposed, namely: Clothing, namely, Jeans, Denim Jeans, T-shirts, and Hooded Sweatshirts
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### Grounds for Opposition


False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
Other	Lack of Bona Fide Intent to Use


### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3020861	Application Date	11/30/2004
Registration Date	11/29/2005	Foreign Priority	NONE

		Date	
Word Mark	RVCA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2000/09/01 First Use In Commerce: 2000/09/01 Clothing and headwear, namely T-shirts, shorts, sweat pants, sweat shirts, swimwear, jackets, wet suits, belts, jeans, slacks, woven shirts, knit shirts, tank tops, socks, sweaters, hats, beanies, caps; Footwear		

U.S. Registration No.	3445067	Application Date	11/17/2007
Registration Date	06/10/2008	Foreign Priority Date	NONE
Word Mark	R C		
Design Mark			
Description of Mark	The mark consists of the letter "R" and the letter "C" with a chevron and inverted chevron in between.		
Goods/Services	Class 018. First use: First Use: 2002/06/30 First Use In Commerce: 2002/06/30 Back packs; All-purpose carrying bags; Book bags; Carry-all bags; Carry-on bags; Messenger bags; Shoulder bags; Travel bags; Purses; Handbags; Luggage		

U.S. Registration No.	3752674	Application Date	05/03/2007
Registration Date	02/23/2010	Foreign Priority Date	NONE
Word Mark	RVCA		
Design Mark			
Description of Mark	The mark consists of the letters "R", "V", "C" and "A" in stylized form.		
Goods/Services	Class 035. First use: First Use: 2009/10/01 First Use In Commerce: 2009/10/01 On-line retail store services featuring clothing, clothing accessories, skate, surf and sporting goods, magazines, art, prints and books; Retail apparel stores; Retail clothing stores; Retail stores featuring clothing, clothing accessories,		

	jewelry, skate, surf and sporting goods, magazines, art; prints and books		
U.S. Registration No.	3333901	Application Date	02/13/2007
Registration Date	11/13/2007	Foreign Priority Date	NONE
Word Mark	VA RVCA		
Design Mark			
Description of Mark	The mark consists of two mythical beings holding a crest with VA thereon and RVCA immediately below the crest.		
Goods/Services	Class 025. First use: First Use: 2001/10/01 First Use In Commerce: 2001/10/01 Ankle socks; Belts; Bermuda shorts; Board shorts; Boxer shorts; Cap visors; Caps; Caps with visors; Coats; Coats made of cotton; Coats of denim; Denim jackets; Dresses; Fleece shorts; Gym shorts; Jackets; Jeans; Knitted caps; Ladies' underwear; Men and women jackets, coats, trousers, vests; Men's socks; Panties, shorts and briefs; Rain coats; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Shorts; Skirts; Skull caps; Socks; Sports shirts with short sleeves; Sweat pants; Sweat shirts; Sweat shorts; Sweat suits; Sweaters; Swim trunks; Swim wear; Swimming trunks; T-shirts; Thermal underwear; Underwear; Vests; Wind coats; Women's underwear		

Attachments	78524354#TMSN.jpeg ( 1 page )( bytes ) 77332378#TMSN.jpeg ( 1 page )( bytes ) 77172584#TMSN.jpeg ( 1 page )( bytes ) 77105757#TMSN.jpeg ( 1 page )( bytes ) 8140-001 Notice of Opposition Against Appl. No. 85559898 REKCA -- 11-21-12 FINAL - Color.pdf ( 28 pages )(8336136 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/ssn/
Name	Sunny Nassim
Date	11/21/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In re Application Serial No.:** 85559898

**Mark:** REKCA (standard word mark)

**Filing Date:** March 5, 2012

**Published in Official Gazette:** July 24, 2012

SEAL TRADEMARKS PTY LTD, AN  
AUSTRALIAN CORPORATION

Opposer,

vs.

DONALD ACKER III AND DYLAN ACKER,  
A CALIFORNIA PARTNERSHIP

Applicant.

**NOTICE OF OPPOSITION**

**Opposition No.**

Trademark Trial and Appeal Board  
P.O. Box 1452  
Alexandria, VA 22313-1451

Opposer SEAL TRADEMARKS PTY LTD (“Opposer”), an Australian corporation, located at 1 Billabong Place, Burleigh Heads, Queensland, Australia 4220, believes that it will be damaged by the registration of the mark “REKCA” in Class 25 for “Clothing, namely, Jeans, Denim Jeans, T-Shirts and Hooded Sweatshirts” as applied for by DONALD ACKER III AND DYLAN ACKER, a California partnership (“Applicant”) in Application Serial No. 85559898 (“the Application”), and Opposer having been granted an extension of time to oppose said Application up to and including November 21, 2012, hereby opposes the same.

## **FACTS**

### **A. Opposer's RVCA Marks**

1. Opposer is the owner of the world famous international design-driven, fashion-forward, lifestyle apparel brand by the name of RVCA (pronounced phonetically as R-U-C-A). The RVCA apparel brand is distributed in over fifty (50) countries worldwide.

2. Opposer is the owner of more than one hundred and sixty (160) trademark registrations and applications for the "RVCA" trademark in International Classes 18, 25 and 35 throughout the world, including but not limited to the United States, Canada, Brazil, Mexico, Singapore, Japan, South Korea, Australia and the European Union.

3. The RVCA apparel brand was founded and started in the United States in the year 2000 and is distributed in many types of retail outlets including but not limited to high-end boutiques, department stores including Nordstrom, Bloomingdale's and Barneys New York, online outlets and action-sports shops.

3. Through extensive promotion and use, the "RVCA" trademark has come to represent Opposer's extensive goodwill, and dating to long before any date upon which Applicant can rely, has become uniquely identified with Opposer and its predecessors and/or licensees and has come to exclusively identify the goods of Opposer.


4. The "RVCA" trademark has been used in United States commerce as early as September 1, 2000. The RVCA brand is now and long has been widely known in the United States (and several countries worldwide) for its wide variety of merchandise including, but not limited to, clothing and clothing accessories, including jeans, t-shirts and sweatshirts.



5. Since as early as September 1, 2000, Opposer and its predecessors and/or licensees have been and are still using the “RVCA” marks in connection with the sale of clothing and clothing accessories. Said use has been valid and continuous since said date of first use and has not been abandoned. Opposer’s marks are symbolic of extensive goodwill and consumer recognition built-up by Opposer and its predecessors and/or licensees through substantial amounts of time, effort and money spent in advertising and promotion of the brand.

6. These dates far precede Applicant’s Intent-to-Use Application (“ITU”) date of March 5, 2012; by over eleven (11) years.

7. In addition to the common law rights acquired by Opposer for said marks through many years of use, Opposer owns the following federal registrations, among others, for the “RVCA” marks in the United States:

Mark	Registration No.	Registration Date	Description of Goods and Services
RVCA (stylized)	3020861	Nov-29-05	<b>Class 25:</b> Clothing and headwear, namely T-shirts, shorts, sweat pants, sweat shirts, swimwear, jackets, wet suits, belts, jeans, slacks, woven shirts, knit shirts, tank tops, socks, sweaters, hats, beanies, caps; Footwear.
RVCA (stylized)	3445067	Jun-10-08	<b>Class 18:</b> Back Packs; All purpose carrying bags; Books bags; Carry-all bags; Carry-on bags; Messenger bags; Shoulder bags; Travel bags; Purses; Handbags; Luggage.
RVCA (stylized)	3752674	Feb-23-10	<b>Class 35:</b> On-line retail services featuring clothing, clothing accessories, skate, surf and sporting goods, magazines, art, prints and books; Retail apparel stores; Retail clothing stores; Retail stores featuring clothing, clothing accessories, jewelry, skate, surf and sporting goods, magazines, art; prints and books.
 RVCA CREST Device	3333901	Nov-13-07	<b>Class 25:</b> Ankle socks; Belts; Bermuda shorts; Board shorts; Boxer shorts; Cap visors; Caps; Caps with visors; Coats; Coats made of cotton; Coats made of denim; Denim jackets; Dresses; Fleece shorts; Gym shorts; Jackets; Jeans; Knitted caps; Ladie's underwear; Men and women jackets, coats, trousers, vests; Men's socks; Panties, shorts and briefs; Rain coats; Short-sleeved or long-sleeved t-shirts; Shorts-sleeved shirts; Shorts; Skirts; Skull caps; Socks; Sports shirts with short sleeves; Sweat pants; Sweat shirts; Sweat shorts; Sweat suits; Sweaters; Swim trunks; Swim wear; Swimming trunks; T-shirts; Thermal underwear; Underwear; Vests; Wind coats; Women's Underwear.

8. Opposer's "RVCA" marks are valid and existing and are prima facie evidence of Opposer's ownership of the mark shown therein, and of Opposer's exclusive right to use said marks in commerce in connection with the goods and services named therein pursuant to Sections 7(b) and/or 33(b) of the Lanham Act, 15 U.S.C. §§ 1057(b), 1115(b), and places others on constructive notice of Opposer's claim of ownership thereof pursuant to Section 22 of the Lanham Act, 15 U.S.C. §§ 1072.

B. Applicant and its Application for "REKCA"

9. Upon information and belief, Applicant Donald Acker III and Dylan Acker's California partnership is located at 144837 Rosemary Drive, Fontana, California 92335, United States.

10. Upon information and belief, on or around March 5, 2012, Applicant filed as Application Serial No. 85559898, an ITU Application for the "REKCA" word mark with the United States Patent and Trademark Office ("USPTO").

11. The Application specifies goods in Class 25 as follows:

*Clothing, namely, Jeans, Denim Jeans, T-Shirts, Hooded Sweatshirts.*

**FIRST GROUND FOR RELIEF**  
**UNDER 15 U.S.C. § 1052(d) LIKELY TO CAUSE CONFUSION, MISTAKE**  
**OR DECEIT**

12. Opposer hereby incorporates by reference Paragraphs 1 through 11 hereinabove as if fully set forth herein.

13. Section 15 U.S.C. § 1052(d) of the Lanham Act states in part that an application for federal registration shall be refused if it consists of or comprises a mark

which *so resembles a mark registered* in the Patent and Trademark Office, or a *mark or trade name previously used in the United States* by another and not abandoned, as to be likely, when used on or in connection with the goods of the applicant, *to cause confusion, or to cause mistake, or to deceive.*

14. Absolute identity is not necessary for infringement; all that is necessary is enough similarity between the marks to confuse consumers. [*Washington Speakers Bureau Inc. v. Leading Authorities Inc.*, 33 F. Supp. 2d 488.] The question when determining a likelihood of confusion is whether the mark will confuse consumers into believing that the goods come from the same source. [*In re West Point-Pepperell, Inc.*, 468 F.2d 200, 201, 175 USPQ 558, 558-59 (C.C.P.A. 1972); TMEP §1207.01(b).] For this reason, the test used is not whether the marks can be distinguished when subjected to a side-by-side comparison, rather whether the marks create the same overall impression. [See *Recot, Inc. v. M.C. Becton*, 214 F.2d 1322, 1329-30, 54 USPQ2d 1894, 1899 (Fed. Cir. 2000); *Visual Info. Inst., Inc. v. Vicon Indus. Inc.*, 209 USPQ 179, 189 (TTAB 1980).]

15. Visually, the “RVCA” and “REKCA” marks are highly similar. Both marks begin with the letter “R” and end with the letters “CA.” When applied to similar goods, the marks are likely to confuse or deceive the public.

16. “RVCA” is phonetically pronounced as R-U-C-A and Applicant’s “REKCA” mark is pronounced as R-E-C-A. Opposer and Applicant’s marks are highly similar in this regard due to their similar phonetic pronunciation.

17. Opposer’s and Applicant’s identification of goods cover identical or highly similar goods with respect to clothing, namely jeans, t-shirts, and sweatshirts, and



are within the same International Class (i.e. 25). Therefore, being that the marks look the same and sound the same, when applied to similar goods, the public is likely to get confused and/or deceived and is likely to think that the goods come from the same source. Therefore, the marks create a similar overall commercial impression.

18. Granting registration to Applicant of the mark “REKCA” would be inconsistent with Opposer’s prior exclusive rights to the “RVCA” marks and would threaten to destroy Opposer’s investment and goodwill in said marks.

19. Based on the foregoing, Opposer has used continuously (without abandonment) the registered “RVCA” marks and any use by Applicant of the “REKCA” mark would likely cause confusion, mistake or deceive the general consuming public.

20. By reason of the foregoing, Opposer will be damaged by the grant of registration of the “REKCA” mark to Applicant.

**SECOND GROUND FOR RELIEF**  
**LACK OF BONA FIDE INTENT**

21. Opposer hereby incorporates by reference Paragraphs 1 through 20 herein-above as if fully set forth herein.

22. Applicant was required to have a bona fide intent to use the “REKCA” mark in United States commerce for each good identified in the Application at the time it filed for trademark protection under Section 43(a) of the Lanham Act, 15 U.S.C. 1051(b).

23. Section 44(a) of the Lanham Act states that when an applicant requests registration of its mark in the United States, an applicant is required to include a verified statement of a *bona fide intent to use a mark in commerce*. The statement must specify that to the best of the applicant’s knowledge and belief, *no other person has the right to use such mark in commerce either in the identical form thereof or in such near*

*resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive.*

24. Upon information and belief, Applicant filed an ITU Application and has not taken any steps to use the “REKCA” mark in United States commerce in connection with the goods identified in said Application.

25. Upon information and belief, Applicant does not have any documents that establish a bona fide intention to use the “REKCA” mark in United States commerce in connection with the goods identified above.

26. Upon information and belief, Applicant did not have a bona fide intention to use the mark in United States commerce in connection with the goods identified in the Application. Further, in addition to not having a bona fide intention to use the “REKCA” mark, under information and belief, Applicant knew or should have known that Opposer has exclusive rights to the highly similar “RVCA” marks so as to “create confusion, or to cause mistake, or to deceive.”

27. Applicant knew or should have known of Opposer’s exclusive rights to the highly similar “RVCA” marks because Opposer’s “RVCA” federally registered trademarks have not only been broadly used in interstate commerce for over a decade, they have been readily available through the USPTO online database and have been extensively used worldwide. In addition to this constructive knowledge, on or around August 23, 2012, Opposer’s legal representative sent a Demand Letter both by email and United States Mail to Applicant. [True and correct copies of Opposer’s Demand Letter and Express Withdrawal-Without Consent and corresponding email and Delivery Status Report are attached hereto and incorporated herein by reference as ANNEX 1]. Applicant

did not respond to this letter and Opposer followed up by sending Applicant a second email on or around September 14, 2012. [A true and correct copy of Opposer's email addressed to Applicant at [Deacker08@yahoo.com](mailto:Deacker08@yahoo.com) which had attached the August 23, 2012 Demand Letter and Express Withdrawal-Without Consent is attached hereto and incorporated herein by reference as **ANNEX 2**]. Applicant failed to respond to both of these emails or the mailed Demand Letter so Opposer contacted Applicant by telephone. Again, Applicant did not respond. For the foregoing reasons, Applicant not only had constructive notice but had *actual* knowledge of the highly similar "RVCA" trademarks.

29. Applicant's filing of the Application is, therefore, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. 1051(b).

30. By reason of the foregoing, Opposer will be damaged by the grant of registration of the "REKCA" mark to Applicant.

### **THIRD GROUND FOR RELIEF** **FALSE CONNECTION WITH OPPOSER**

31. Opposer incorporates by reference Paragraphs 1 through 30 above as if fully set forth herein.

32. Since as early as September 2000, Opposer and its predecessors and/or licensees have been and are still selling products bearing the "RVCA" trademarks. Said use has been valid and continuous since said date of first use and the public has come to associate Opposer and its predecessors and/or licensees with said designation. In view of the similarity of Applicant's mark with Opposer's marks, and in view of the related nature of goods thereof, it is alleged that Applicant's "REKCA" mark consists of and comprises matter that may disparage and falsely suggest a connection with Opposer.



33. Applicant's "REKCA" trademark is a close approximation, both visually and phonetically, of Opposer's well-known "RVCA" marks, so that the disputed mark would be recognized as such in that it points uniquely and unmistakably to Opposer and its marks.

34. Applicant and Opposer bear no connection whatsoever. Applicant is a California partnership comprised of two (2) individuals, namely Donald and Dylan Acker, whereas Opposer is an Australian company conducting business worldwide. Opposer is not connected in any way to the activities performed (or lack thereof) by Applicant under the "REKCA" mark.

35. Since as early as 2000, Opposer and its predecessors and/or licensees have been, and are still, using the "RVCA" marks in connection with the sale of clothing and clothing apparel. Said use has been valid and continuous since said date of first use and has not been abandoned. Opposer's "RVCA" marks are symbolic of extensive goodwill and consumer recognition built by Opposer and its predecessors and/or licensees through substantial amounts of time, effort and money spent in advertising and promoting the brand. Opposer's "RVCA" marks are famous in the marketplace, evidenced by the approximate 150,000 visits per month (on average between January 2012 and August 2012) to the RVCA website where people from all over the world can purchase merchandise bearing the "RVCA" marks. The fame and reputation of Opposer is such that, if Applicant's "REKCA" mark was to be used in commerce in connection with Applicant's goods, a connection with Opposer would be presumed.

36. Applicant has applied for protection in Class 25 and Opposer currently retains protection for the "RVCA" marks in the United States (and in over fifty (50)



countries worldwide) in Class 25 (and in other classes related to clothing), and Applicant's identification of goods covers identical or highly similar goods with respect to apparel. Use by Applicant of the "REKCA" trademark for the goods identified in its Application is, therefore, likely to create an erroneous impression that Applicant's goods originate with, are sponsored or approved by, or are otherwise connected with Opposer or Opposer's business and products. Any use of the "REKCA" trademark by Applicant, therefore, may disparage and falsely suggest a connection with Opposer.

37. Based on the aforementioned, Opposer will be damaged by the registration of the "REKCA" trademark.

**FOURTH GROUND FOR RELIEF**  
**UNDER 15 U.S.C. § 1125(c) DILUTION**

38. Opposer incorporates by reference Paragraphs 1 through 37 above as if fully set forth herein.

39. Opposer's famous mark will become diluted in the marketplace by the registration of Applicant's mark.

40. Under the Lanham Act, 15 U.S.C. § 1125(c)(1), a famous mark will become diluted in the marketplace if another mark or trade name is used in commerce that is likely to cause dilution by blurring or dilution by tarnishment, regardless of the presence or absence of actual or likely confusion, or competition, or of actual economic injury.

41. Further, under the Lanham Act, a mark is famous if it is widely recognized by the general consuming public of the United States as a designation of source of the goods or services of the mark's owner. The duration and extent of advertising and publicity of the mark and amount, volume and geographic extent of the sales of goods or

services offered contribute to the degree of recognition of the famous mark. [15 U.S.C. § 1125 (c)(2)(A)].

42. Opposer's "RVCA" marks are famous in the marketplace. Since its first use in the United States as early as September 2000, Opposer and its predecessors and/or licensees have engaged in extensive advertising and promotion of the "RVCA" marks. The trademarks are the main identifiers for the RVCA brand, which are licensed and sold in over fifty (50) countries worldwide. In the United States and Canada alone, RVCA goods are sold in over 2,200 retail stores and on hundreds of online stores. The general consuming public has come to associate the RVCA brand and trademarks with goodwill and high quality products belonging to Opposer, both in the United States and abroad.

43. Irrespective of establishing the likelihood of confusion, dilution by blurring exists when a mark other than the famous mark impairs the distinctiveness of the already famous mark. In this case Applicant's "REKCA" trademark will dilute Opposer's already famous "RVCA" marks if it is to gain registration. [15 U.S.C. § 1125 (c)(2)(B)].

44. Based on the foregoing, Applicant's "REKCA" mark is highly similar both in appearance and pronunciation to the "RVCA" marks owned by Opposer. Being that Opposer's "RVCA" marks are fanciful, there is an inherent distinctiveness that Opposer and its predecessors and/or licensees wished to retain when it began using the marks starting in 2000. Opposer created the RVCA brand in 2000 and used and continues to use the "RVCA" marks as icons to represent the brand. Opposer has engaged in substantial exclusive use of the marks since 2000. Applicant's "REKCA" mark bears no association to Opposer's already famous "RVCA" marks, nor does either party intend to create any association with the other.

45. Opposer's marks will be diluted since the distinctiveness of Opposer's marks will be diminished if the Applicant has the ability to use a highly similar mark in the same industry.

46. By reason on the foregoing, Opposer will be damaged by the registration of the "REKCA" trademark.

WHEREFORE, Opposer believes that it will be damaged by the registration of Applicant's "REKCA" trademark and prays that the opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposer in this proceeding Sunny S. Nassim (member of the bar of the State of California) and the firm Jacobson, Russell, Saltz & Fingerman, LLP, 10866 Wilshire Boulevard, Suite 1550, Los Angeles, California 90024.

Please address all communications to Sunny S. Nassim, Esq. at the address listed below.

Dated: Los Angeles, California  
November 21, 2012

Respectfully submitted,

JACOBSON, RUSSELL, SALTZ & FINGERMAN, LLP  
Attorneys for Opposer

By: 

Sunny S. Nassim  
10866 Wilshire Blvd, Suite 1550  
Los Angeles, CA 90024

## CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the enclosed **NOTICE OF OPPOSITION** has been served on Applicant Donald Acker III and Dylan Acker a California partnership, by mailing said copy on November 21, 2012, via First Class Mail, postage prepaid, addressed to Applicant as follows:

DONALD ACKER III AND DYLAN ACKER, A CALIFORNIA PARTNERSHIP  
14837 ROSEMARY DRIVE  
FONTANTA, CALIFORNIA, 92335

Dated: Los Angeles, California  
November 21, 2011



Sara Ponciano



# ANNEX “1”



**JACOBSON, RUSSELL,  
SALTZ & FINGERMAN LLP**

10866 Wilshire Boulevard, Suite 1550  
Los Angeles, CA 90024  
Telephone: (310) 446-9900  
Facsimile: (310) 446-9909  
[www.jrsfllp.com](http://www.jrsfllp.com)

August 23, 2012

**VIA U.S. MAIL & EMAIL**

Mr. Donald Acker III  
Mr. Dylan Acker  
14837 Rosemary Drive  
Fontana, CA 92335  
[Deacker08@yahoo.com](mailto:Deacker08@yahoo.com)

**Re: USPTO Application Serial No.85559898 "REKCA" in Class 25**

Dear Messrs.:

This office represents Seal Trademarks Pty Ltd ("Seal") who is the owner of the RVCA brand ([www.rvca.com](http://www.rvca.com)) and the worldwide intellectual property rights related to this brand. Amongst others, our client is the registered owner of the following United States federally registered trademarks:

Registration No.	3020861	RVCA	Class 25
Registration No.	3445067	RVCA	Class 18
Registration No.	3752674	RVCA	Class 35
Registration No.	3333901	VA RVCA	Class 25

Seal has invested substantial time, money and effort in promoting and protecting the RVCA trademarks worldwide. Seal has been using its various RVCA trademarks in the United States since the early 2000's and, as you can appreciate, Seal must protect its investment and reputation in the RVCA brand.

It appears that you have applied to register the above-referenced "REKCA" trademark in Class 25. The goods designated by your application in Class 25 are substantially similar to those for which our client's earlier marks are registered.

In addition, the "REKCA" mark is visually highly similar and phonetically and conceptually indistinguishable to our client's RVCA trademark. Overall, this leads to the likelihood of confusion as per Section 2(d) of the Act, 15 U.S.C. § 1052(d) in addition to your mark diluting the distinctive quality of our client's mark.

In view of the above, we see no other option for avoiding confusion in the marketplace than for you to withdraw the above U.S. application. We understand that your "REKCA" trademark is

Mr. Donald Acker III  
Mr. Dylan Acker  
August 23, 2012  
Page 2 of 2

not currently in use, and therefore suggest that you change your mark now to another trademark which is not similar to our client's trademark.

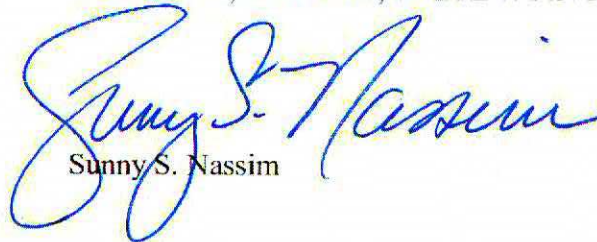
We have extended the deadline in which to file an opposition against your application in order to preserve our client's rights. We look forward to receiving confirmation that you will withdraw your application without the need for our client to pursue formal opposition proceedings in order to ensure the protection of our client's intellectual property rights.

Please contact this office no later than **September 14, 2012** to confirm that the "REKCA" trademark is being withdrawn. For your convenience an Express Withdrawal for the trademark is attached.

This letter is not intended as a complete exposition of the facts and circumstances of the matters set forth herein, nor as a complete statement of our client's position. The foregoing is not intended to nor shall it be construed to operate as an admission of any of our client's rights or remedies, all of which are expressly reserved.

Yours truly,

JACOBSON, RUSSELL, SALTZ & FINGERMAN, LLP



Sunny S. Nassim

/Enclosure  
cc: Seal Trademark Pty Ltd



Application No. 85559898

Mr. Dylan Acker



## Sunny Nassim

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**From:** Sunny Nassim  
**Sent:** Thursday, August 23, 2012 2:30 PM  
**To:** Deacker08@yahoo.com  
**Cc:** Claudia Schiantarelli  
**Subject:** Demand Letter re: USPTO Application Serial No. 85559898 "REKCA" in Class 25  
**Attachments:** 8140-001 Demand Ltr Acker re REKCA-8-23-12.pdf  
  
**Importance:** High

Dear Messrs.:

Please see the attached.

Yours truly,

Sunny S. Nassim, Esq.  
JACOBSON, RUSSELL, SALTZ & FINGERMAN, LLP  
10866 Wilshire Boulevard, Suite 1550  
Los Angeles, CA 90024  
Tel: (310) 446-9900 Ext."230"  
Fax: (310) 446-9909  
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[www.jrsfilp.com](http://www.jrsfilp.com)

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August 23, 2012

**VIA U.S. MAIL & EMAIL**

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Mr. Dylan Acker  
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Fontana, CA 92335  
[Deacker08@yahoo.com](mailto:Deacker08@yahoo.com)

**Re: USPTO Application Serial No.85559898 "REKCA" in Class 25**

Dear Messrs.:

This office represents Seal Trademarks Pty Ltd ("Seal") who is the owner of the RVCA brand ([www.rvca.com](http://www.rvca.com)) and the worldwide intellectual property rights related to this brand. Amongst others, our client is the registered owner of the following United States federally registered trademarks:

Registration No.	3020861	RVCA	Class 25
Registration No.	3445067	RVCA	Class 18
Registration No.	3752674	RVCA	Class 35
Registration No.	3333901	VA RVCA	Class 25

Seal has invested substantial time, money and effort in promoting and protecting the RVCA trademarks worldwide. Seal has been using its various RVCA trademarks in the United States since the early 2000's and, as you can appreciate, Seal must protect its investment and reputation in the RVCA brand.

It appears that you have applied to register the above-referenced "REKCA" trademark in Class 25. The goods designated by your application in Class 25 are substantially similar to those for which our client's earlier marks are registered.

In addition, the "REKCA" mark is visually highly similar and phonetically and conceptually indistinguishable to our client's RVCA trademark. Overall, this leads to the likelihood of confusion as per Section 2(d) of the Act, 15 U.S.C. § 1052(d) in addition to your mark diluting the distinctive quality of our client's mark.

In view of the above, we see no other option for avoiding confusion in the marketplace than for you to withdraw the above U.S. application. We understand that your "REKCA" trademark is



Mr. Donald Acker III  
Mr. Dylan Acker  
August 23, 2012  
Page 2 of 2

not currently in use, and therefore suggest that you change your mark now to another trademark which is not similar to our client's trademark.

We have extended the deadline in which to file an opposition against your application in order to preserve our client's rights. We look forward to receiving confirmation that you will withdraw your application without the need for our client to pursue formal opposition proceedings in order to ensure the protection of our client's intellectual property rights.

Please contact this office no later than **September 14, 2012** to confirm that the "REKCA" trademark is being withdrawn. For your convenience an Express Withdrawal for the trademark is attached.

This letter is not intended as a complete exposition of the facts and circumstances of the matters set forth herein, nor as a complete statement of our client's position. The foregoing is not intended to nor shall it be construed to operate as an admission of any of our client's rights or remedies, all of which are expressly reserved.

Yours truly,

JACOBSON, RUSSELL, SALTZ & FINGERMAN, LLP



Sunny S. Nassim

/Enclosure

cc: Seal Trademark Pty Ltd

Seal Trademarks Pty Ltd

Opposer

V.

Mr. Donald Acker III and  
Mr. Dylan Acker

## Applicants

Application No. 85559898

### **EXPRESS WITHDRAWAL – WITHOUT CONSENT**

Mr. Donald Acker III and Mr. Dylan Acker hereby expressly withdraw the Application No. 85559898 with prejudice and without admitting any liability.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Mr. Donald Acker III / Mr. Dylan Acker  
14837 Rosemary Drive  
Fontana, CA 92335  
[Deacker08@yahoo.com](mailto:Deacker08@yahoo.com)

## Applicants

## Certificate of Service

This document is being served on, Sunny Nassim of Jacobson, Russell, Saltz & Fingerman LLP, 10866 Wilshire Boulevard, Suite 1550, Los Angeles, CA 90024, on \_\_\_\_\_ by email at sunny@jrsfllp.com and claudia@jrsfllp.com.

Mr. Donald Acker III

Mr. Dylan Acker



**Sunny Nassim**

---

**From:** MAILER-DAEMON@server506.appriver.com  
**To:** Deacker08@yahoo.com  
**Sent:** Thursday, August 23, 2012 2:30 PM  
**Subject:** Delivered: Demand Letter re: USPTO Application Serial No. 85559898 "REKCA" in Class 25

**Your message has been delivered to the following recipients:**

[Deacker08@yahoo.com](mailto:Deacker08@yahoo.com)

Subject: Demand Letter re: USPTO Application Serial No. 85559898 "REKCA" in Class 25

# **ANNEX “2”**

## Sunny Nassim

---

**From:** Sunny Nassim  
**Sent:** Friday, September 14, 2012 4:19 PM  
**To:** Deacker08@yahoo.com  
**Cc:** Claudia Schiantarelli  
**Subject:** RE: Demand Letter re: USPTO Application Serial No. 85559898 "REKCA" in Class 25  
**Attachments:** 8140-001 Demand Ltr Acker re REKCA-8-23-12.pdf

**Importance:** High

Dear Messrs.:

Pursuant to our correspondence from August 23, 2012 (see attached), the deadline to withdraw your mark "REKCA" Appl. No. 85559898 from the USPTO is today and we have not received a response from you. Accordingly, we will move forward with opposing your mark before our deadline of **November 21, 2012** unless we hear otherwise.

Yours truly,

Sunny S. Nassim, Esq.  
JACOBSON, RUSSELL, SALTZ & FINGERMAN, LLP  
10866 Wilshire Boulevard, Suite 1550  
Los Angeles, CA 90024  
Tel: (310) 446-9900 Ext."230"  
Fax: (310) 446-9909  
[sunny@jrsfllp.com](mailto:sunny@jrsfllp.com)  
[www.jrsfllp.com](http://www.jrsfllp.com)

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---

**From:** Sunny Nassim  
**Sent:** Thursday, August 23, 2012 2:30 PM  
**To:** Deacker08@yahoo.com  
**Cc:** Claudia Schiantarelli  
**Subject:** Demand Letter re: USPTO Application Serial No. 85559898 "REKCA" in Class 25  
**Importance:** High

Dear Messrs.:

Please see the attached.

Yours truly,



Sunny S. Nassim, Esq.  
JACOBSON, RUSSELL, SALTZ & FINGERMAN, LLP  
10866 Wilshire Boulevard, Suite 1550  
Los Angeles, CA 90024  
Tel: (310) 446-9900 Ext. "230"  
Fax: (310) 446-9909  
[sunny@jrsfllp.com](mailto:sunny@jrsfllp.com)  
[www.jrsfllp.com](http://www.jrsfllp.com)

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**JACOBSON, RUSSELL,  
SALTZ & FINGERMAN LLP**

10866 Wilshire Boulevard, Suite 1550  
Los Angeles, CA 90024  
Telephone: (310) 446-9900  
Facsimile: (310) 446-9909  
[www.jrsfllp.com](http://www.jrsfllp.com)

August 23, 2012

**VIA U.S. MAIL & EMAIL**

Mr. Donald Acker III  
Mr. Dylan Acker  
14837 Rosemary Drive  
Fontana, CA 92335  
[Deacker08@yahoo.com](mailto:Deacker08@yahoo.com)

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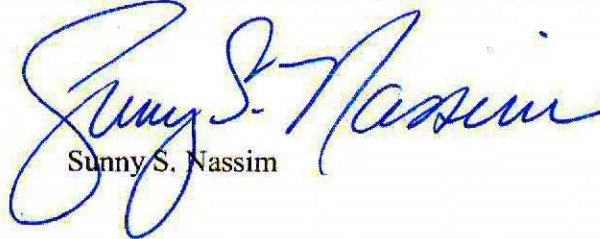
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Yours truly,

JACOBSON, RUSSELL, SALTZ & FINGERMAN, LLP



Sunny S. Nassim

/Enclosure

cc: Seal Trademark Pty Ltd



## Seal Trademarks Pty Ltd

Opposer

**V.**

Mr. Donald Acker III and  
Mr. Dylan Acker

## Applicants

Application No. 85559898

Mr. Donald Acker III and Mr. Dylan Acker hereby expressly withdraw the Application No. 85559898 with prejudice and without admitting any liability.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Mr. Donald Acker III / Mr. Dylan Acker  
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Fontana, CA 92335  
[Deacker08@yahoo.com](mailto:Deacker08@yahoo.com)

## Applicants

This document is being served on, Sunny Nassim of Jacobson, Russell, Saltz & Fingerman LLP, 10866 Wilshire Boulevard, Suite 1550, Los Angeles, CA 90024, on \_\_\_\_\_ by email at sunny@jrsflp.com and claudia@jrsflp.com.

Mr. Donald Acker III

Mr. Dylan Acker